IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.4965 of 2004

Date of Decision: 14.09.2006

Surjit Kaur & Ors. ...Petitioners

Vs.

Narinder Kaur & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Arun Jain, Advocate,
for the petitioners.

Mr.S.P.Soi, Advocate,
for the respondents.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the order dated 13.9.2004 passed by the learned Civil Judge (Senior Division), allowing the application for the amendment of the plaint.

Plaintiff-respondent by way of amendment had sought to produce Will which they wished to challenge.

The learned Trial Court came to the conclusion that the

question as to whether existence of Will was within the knowledge of the plaintiff-respondent will be decided after the parties have led their evidence. It was further held that the amendment was necessary for just and proper adjudication of the matter in dispute between the parties and accordingly allowed the amendment.

Learned counsel for the petitioners contends that in view of the proviso to Order 6 Rule 17 of the Code of Civil Procedure once it is shown that the matter sought to be brought by way of amendment was within the knowledge of a party or could be so found by due diligence no amendment could be allowed after commencement of trial. I do not agree with the contention of learned counsel as in the present case the learned Trial Court has held that the amendment was necessary for just and proper adjudication of the case and therefore, the same could be allowed at any stage of the case irrespective of the proviso to Order 6 Rule 17 of the Code.

In view of above, I do not find any merit in the present revision petition and the same is dismissed.

(Vinod K.Sharma)
Judge

14.09.2006
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